

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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FRED REEVES, #241575,	)	
	)	
Plaintiff,	)	Case No. 1:04-cv-605
	)	
v.	)	Honorable Robert Holmes Bell
	)	
THOMAS SWEET, et al.,	)	<b><u>ORDER</u></b>
	)	
Defendants.	)	
	)	

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This is a civil action brought *pro se* by a state prisoner pursuant to 42 U.S.C. § 1983. The matter is before the court on defendants' motion to strike plaintiff's affidavit and exhibits filed in opposition to defendants' motion for summary judgment. (docket # 43). Defendants ask the court to strike these documents because they are "irrelevant" to the events of January 29, 2004 forming the basis of plaintiff's complaint against defendants. Rule 56(e) limits the court's consideration to those facts "as would be admissible in evidence." Evidence which does not satisfy the requirements of Rule 56(e) will be disregarded. Rule 56 does not authorize a motion to strike.

Rule 12(f) of the Federal Rules of Civil Procedure states, in pertinent part, that, "the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter." Plaintiff's affidavit and the attached exhibits are not pleadings. *See* FED. R. CIV. P. 7(a); *see also Sutton v. United States Small Bus. Admin.*, 92 F. App'x 112, 118 (6th Cir. 2003)("Rule 12(f) does not apply to an affidavit because it is not a 'pleading.'"); *Gruener*

*v. Ohio Cas. Co.*, No. C-1-03-780, 2005 WL 1745531, at \* 5 (S.D. Ohio July 25, 2005).

Accordingly, defendants' motion to strike (docket # 43) is DENIED.

Dated: September 6, 2005

/s/ Joseph G. Scoville

United States Magistrate Judge